

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 3, 2012

Thru: Bridget Bohac, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: Susana M. Hildebrand, P.E., Chief Engineer
2011-1745-RUL

Docket No.:

Subject: Commission Approval for Proposed Rulemaking
30 Texas Administrative Code (TAC) §101.201(h), Emissions
Event Reporting and Recordkeeping Requirements, and
§101.211(f), Scheduled Maintenance, Startup, and Shutdown
Reporting and Recordkeeping Requirements,
Small Source Reporting of Certain Emissions
Rule Project No. 2011-043-101-EN

Background and reason(s) for the rulemaking:

Parts of 30 TAC §101.201(h) and §101.211(f) apply to sources not otherwise required to report an annual emissions inventory per 30 TAC §101.10, Emissions Inventory, and require these sources to annually report emissions from and the number of total emissions events (EE) or maintenance, startup, or shutdown (MSS) activities. The reporting under these subsections applies to sources that are experiencing at least one emission events or MSS activity and are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. Sources are required to report the number of EE and MSS and the amount of reportable and nonreportable emissions by mixture or compound.

On July 28, 2010, the commission voted to withdraw §101.201(h) and §101.211(f), as adopted by the commission on December 14, 2005, from consideration as revisions to the state implementation plan (SIP) because the executive director's staff was evaluating whether there was still a need to collect the data required by parts of these subsections of the rules. The number of sources annually reporting because of these subsections has remained small since 2006, and emissions quantities collected between 2006 and 2010 have not exceeded 100 tons of the ozone precursors of volatile organic compounds (VOC) or nitrogen oxides (NO_x) statewide. Reportable amounts of emissions are also collected and available in the State of Texas Environmental Electronic Reporting System (STEERS). Because of the quantities of emissions reported have remained less than 100 tons per year for either VOC or NO_x, the data are not statistically significant and have not been used for air quality planning activities. Staff time is used to review and enter this data and costs are incurred annually for database maintenance.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do: The proposed rulemaking would remove parts of 30 TAC §101.201(h) and §101.211(f) that require certain small emitting

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sources that are not subject to the annual reporting requirements of 30 TAC §101.1o in select areas to report annual emissions from EE and MSS activities emissions annually to the Texas Commission on Environmental Quality (TCEQ).

B.) Scope required by federal regulations or state statutes: Collection of EE and MSS activities data from these sources as required by the parts of existing 30 TAC §101.201(h), and §101.211(f) are not specifically required under federal or state statutes. Other provisions in TCEQ rules to collect EE and MSS activities data of reportable quantities within 24 hours or total EE and MSS activities as part of the annual emissions inventory from sources that are required to submit an emissions inventory per 30 TAC §101.1o as required under these statutes remain unchanged.

C.) Additional staff recommendations that are not required by federal rule or state statute: None.

Statutory authority:

Texas Water Code, §§5.102, 5.103, and 5.105, and Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.014, 382.017, 382.0215, 382.0216, and 382.085.

Effect on the:

A) Regulated community: The total number of sites reported has remained fewer than 70 annually since 2006. These proposed amendments would remove a reporting burden for these sites.

B) Public: This rulemaking would not affect the general public.

C) Agency programs: After adoption, staff time and resources would not be required to review and enter this data, and maintain the database.

Stakeholder meetings:

No stakeholder meetings are planned.

Potential controversial concerns and legislative interest:

The amount of data and magnitude of emissions collected from these smaller sources per parts of 30 TAC §101.201(h) and §101.211(f) has remained less than 100 tons for either VOC or NO_x. The data are not statistically significant and have not been used in air quality planning activities. However, removing the parts of the subsections from the rule could have the appearance that the TCEQ is neglecting collection of data that could be used for air quality planning purposes. There is no known legislative interest.

Will this rulemaking affect any current policies or require development of new policies?

Certain small sources would no longer be required to report annual emissions from EE and MSS activities to the TCEQ.

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What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Data would continue to be collected annually and entered into a database. Staff and maintenance costs would be incurred for the collection, entry, and storage of data that are not being used and are of no consequence to air quality planning purposes.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: February 22, 2012

Anticipated *Texas Register* publication date: March 9, 2012

Public comment period: March 9, 2012 – April 9, 2012

Anticipated adoption date: July 27, 2012

Agency contacts:

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Attachments

None

cc: Chief Clerk, 2 copies
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